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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,454	08/04/2006	Michael Woehrle	27409U	2988
20529	7590	01/23/2008	EXAMINER	
NATH & ASSOCIATES 112 South West Street Alexandria, VA 22314			MCDUFFIE, MICHAEL D	
		ART UNIT	PAPER NUMBER	
		3632		
		MAIL DATE		DELIVERY MODE
		01/23/2008		PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/585,454	WOEHRLE ET AL.
	Examiner	Art Unit
	MICHAEL McDUFFIE	3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 04 August 2006.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-16 and 19-25 is/are rejected.
 7) Claim(s) 17 and 18 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 04 August 2006 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>09/08/2006</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ . |

The following correspondence is a non-final Office Action for application # 10/585,454, entitled: DRIVE FOR ADJUSTING MOTOR VEHICLE SEATS, filed on 08/04/2006. Claims 1-25 are pending.

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: **11a-b** (of Fig. 1). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. This figure appears to be identical to Fig. 1 of US Patent

No.: 7,051,986 to Taubmann et al. (which corresponds to EP 1068093 B1). See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters “**62**” and “**63**” have both been used to designate the “vertical shank.” In addition, reference characters “**62**” and “**63**” have both been used to designate the “flat support surface.” Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters “**62**” and “**63**” have been used to designate both the

vertical shank and the flat support surface. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 10 and 14 are objected to because of the following informalities: claim 10, line 2 states, "...support surface (63) runing." The Examiner suggests correcting the spelling of "running." In addition, claim 14, line 3 states, "...formed on in one piece..." It is believed that the Applicant means, "...formed **in** one piece..." Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-13, 15-16, and 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taubmann et al. (EP 1068093 B1).

Regarding claim 1, Taubmann discloses a drive having a spindle 5 that is attached to first 4 of two rails 3, 4 that are adjustable relative to one another by means of support device (as shown in Fig. 1 below) located on at least one end of spindle 5, and having gear mechanism 9 driven by motor 2, which is arranged on second rail 3. Taubmann fails to teach where at least one support device has a trough-shaped outer support surface in which one end of the spindle is seated in a fixed manner. The Examiner notes that the spindle's attachment to the support device is merely an alternative method of fastening the elements together. The claim would have been obvious because the substitution of one known element for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

With regards to claim 2, Taubmann teaches the drive, characterized by two such support devices (see Fig. 1 below) being provided, whereby one of such support devices 60 serves to hold one of two ends of spindle 5 in each instance.

Regarding claims 3, 4, and 10, the spindle being attached onto the trough-shaped support surface by means of laser welding, is a product by process. The Examiner notes that the utilization of welding is a mechanical equivalent of using a screw or other fastener to attach two elements. It would have been obvious to one having ordinary skill in the art at the time of the invention, to weld the spindle to the support surface, as a substitute for using screws, bolts, or other fasteners, in order to provide a secure connection between the spindle and support surface.

With regards to claim 5, 7, 8, 12, 13, and 19, Taubmann fails to disclose the specific dimensions of the components of his device. It would have been obvious to one having ordinary skill in the art at the time of the invention to alter the measurements of the components, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding claims 6, 21, and 22, Taubmann fails to teach the desired materials as claimed by the Applicant. It would have been obvious to one having ordinary skill in the art at the time of the invention, to utilize steel or other metals, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

With regards to claim 9, Taubmann teaches the drive, characterized by each support device being shaped in an L- shaped manner and having plate-shaped horizontal shank **6a** and solid, block-like vertical shank (as shown in Fig. 14 below) on top of which the support surface is formed.

Regarding claim 11, Taubmann goes on to disclose the drive, characterized by horizontal shank **6a** having attachment hole (as shown in Fig. 14) so that it can be attached to the vehicle floor.

With regards to claims 15 and 16, Taubmann teaches the drive, characterized by support device having no less than one projecting cam (as shown in Fig. 2 below) on its lower support surface for engaging into corresponding opening of first rail **4**, and where the two cams are spaced apart from one another when seen in the longitudinal axis to spindle **5**.

Regarding claim 20, Taubmann discloses the drive, characterized by solid, block-like vertical shank (see Fig. 15 below) of support device having outer stop surface (as shown in Fig. 15 below) for gear mechanism **9** that can move on spindle **5**, which surface runs orthogonally to horizontal shank **6a**.

With regards to claims 23-25, Taubmann teaches the drive, characterized by spindle **5** that is seated firmly on support device(s) forming a pre-assembled module together with lower rail **4** and upper rail **3**, where the lower rail **4** being releasably connected with support device(s), and further characterized by lower rail **4** and support devices being connected with one another in a form-fit manner (as shown in Fig. 1).

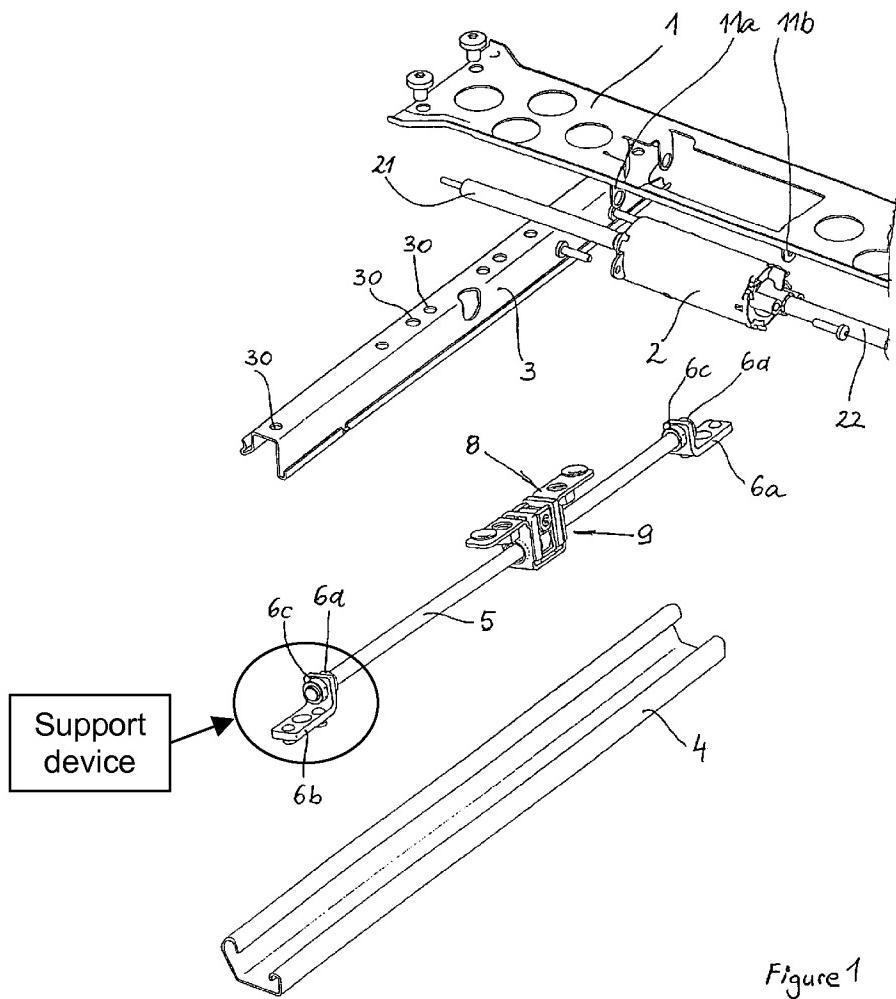


Figure 1

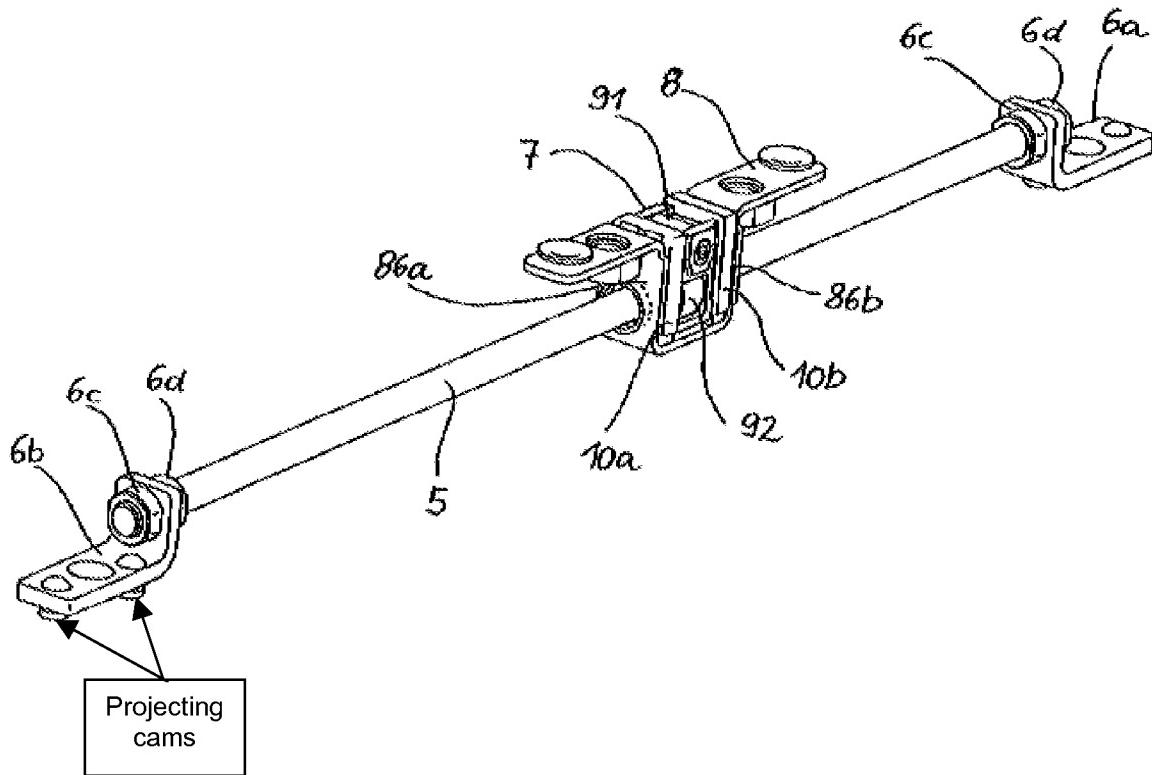


Figure 2

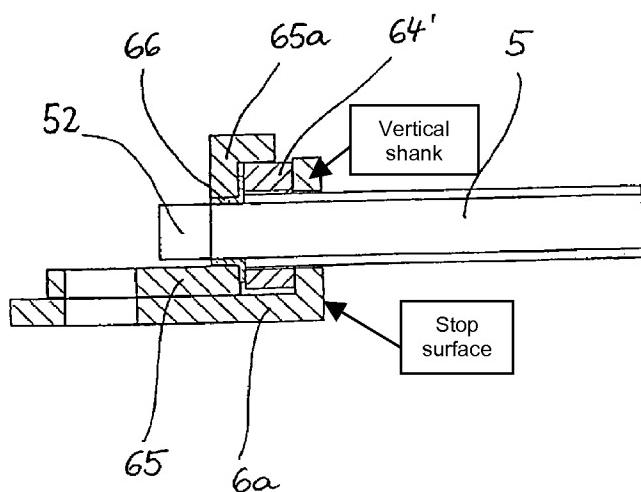
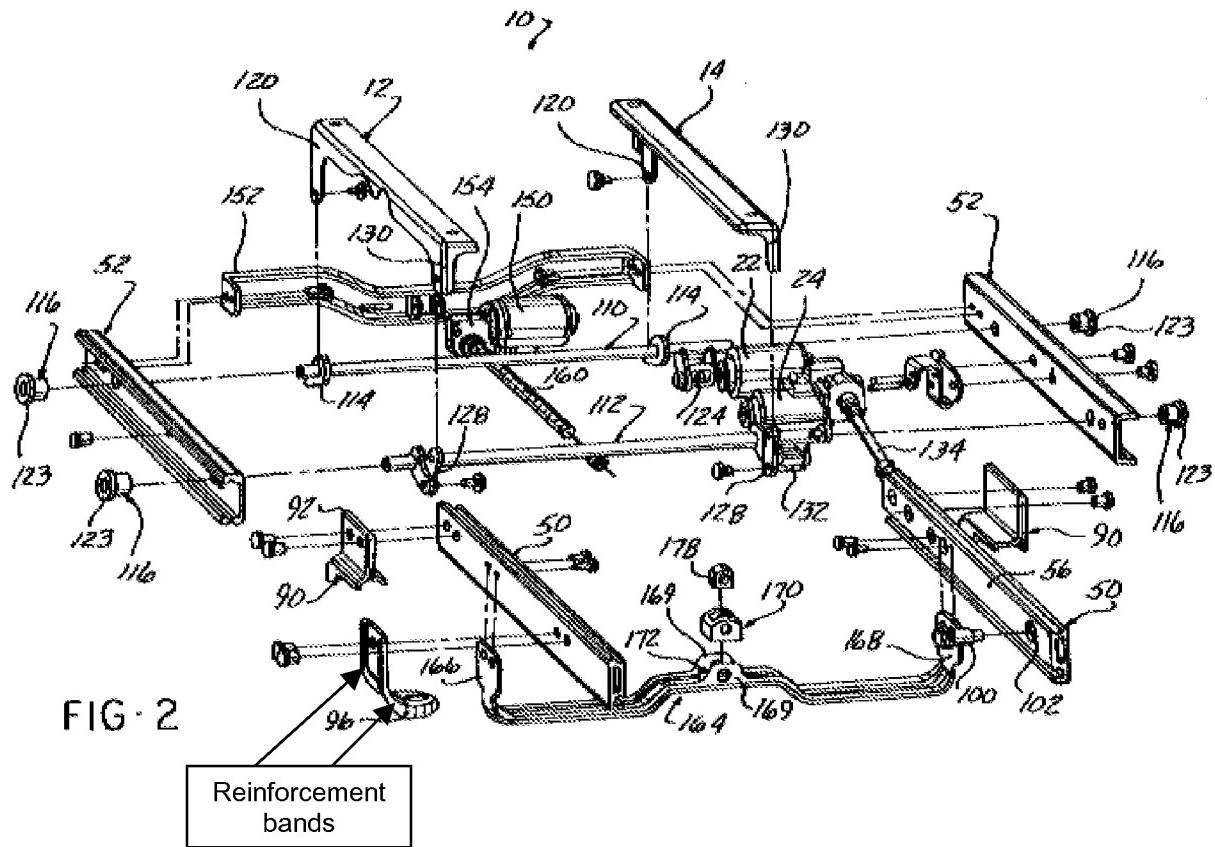


Figure 15

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taubmann in view of Gauger (U.S. Patent No.: 5769377).

Taubmann is discussed above, and fails to teach reinforcement bands. Gauger teaches an L-shaped support member **96** with reinforcement bands (as shown in Fig. 2 below), formed in one piece on the border side at the inner transition area to the horizontal shank. It would have been obvious to one having ordinary skill in the art at the time of the invention, to incorporate the reinforcing bands of Gauger with the support device of Taubmann, in order to provide additional stability for the support device, as is well known in the art.



Allowable Subject Matter

Claims 17 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

In addition to the aforementioned references, the Examiner submits form PTO-892, which lists devices capable of supporting a drive for a vehicle seat.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL MCDUFFIE whose telephone number is (571)272-3832. The examiner can normally be reached on Mon.-Fri., 7AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael McDuffie/
Examiner, Art Unit 3632
15-Jan-08

/RAMON O. RAMIREZ/
Primary Examiner
Art Unit 3632